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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

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SEP 17 2004

OFFICE OF PETITIONS

In re Application of	:	
James Proctor, Jr.	:	
Application No. 10/767,843	:	DECISION REFUSING STATUS
Filed: January 29, 2004	:	UNDER 37 C.F.R. §1.47(b)
Attorney Docket Number: 2479.2166-000	:	
Title of Invention: METHOD FOR	:	
COMPENSATING FOR MULTI-PATH OF A	:	
CDMA REVERSE LINK UTILIZING AN	:	
ORTHOGONAL CHANNEL STRUCTURE	:	

This is in response to the petition under 37 C.F.R. §1.47(b), filed August 16, 2004.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on January 29, 2004, without a declaration executed by the sole inventor James Proctor, Jr.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to provide items (2), (5) and (6).

As to item (2), applicant failed to submit an executed oath or declaration with the petition. In addition to including the non-signing inventor's information, the granting of 47 status requires a rule 47 (b) applicant to make the oath required by 37 CFR §1.63 and §1.64. Where applicant is a corporation, an officer of the corporation normally is

As to item (5), Applicant has failed to provide any proof a proprietary interest is held in this application. Proprietary interest is usually established by establishing a) the invention has been assigned to applicant, or b) the inventor has agreed in writing to assign the invention to the applicant or c) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. See MPEP 409.03(f). The unsigned assignment document provided with the petition is not sufficient evidence of proprietary interest.

As to item (6), Applicant has not provided a showing that the granting of rule 47 status is necessary to preserve the rights of the party or prevent irreparable damage. See MPEP 409.03(h).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
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By facsimile: (703) 872-9306

By delivery service:
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Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-0251.

Charles R. Hays

Charlema R. Grant
Petitions Attorney
Office of Petitions